

RESOLUTION NO. 2013-03

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SEDONA,
ARIZONA, CREATING A PUBLIC RECORD SETTING FORTH PROPOSED
AMENDMENTS TO THE SEDONA CITY CODE CHAPTER 1.15 CONCERNING CIVIL
CITATION AUTHORITY AND CIVIL PENALTIES.**

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA that the provisions set forth in that document attached hereto as Exhibit A and entitled "**Proposed 2013 Amendments to City Code Chapter 1.15 concerning Civil Citation Authority and Civil Penalties**" constitute a public record to be incorporated by reference into Ordinance No. 2013-01.


At least three (3) copies of this public record shall be kept in the office of the City Clerk for public use and inspection.

PASSED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona this 12th day of February, 2013.



Robert M. Adams, Mayor

Attest:



Susan L. Irvine, CMC, City Clerk

Approved as to Form:



Mike Goimarac, City Attorney

EXHIBIT A

Proposed 2013 Amendments to City Code Chapter 1.15 concerning Civil Citation Authority and Civil Penalties

Chapter 1.15 PENALTIES

Sections:

1.15.010 Penalties.

1.15.020 Collection fees.

1.15.010 Penalties.

A. Any person found guilty of violating any provisions of this code, except as otherwise specifically provided, shall be guilty of a class 1 misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$2,500 or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues is a separate offense punishable as set forth herein or by civil sanction.

B. All penalty provisions of existing code provisions or city ordinances which specifically provide for maximum fines of less than \$1,000 upon conviction are hereby amended to provide for a maximum fine of \$2,500.00~~shall remain in effect unchanged by this section.~~

C. All penalty provisions of existing city ordinances which state that the maximum fine that may be imposed is \$1,000 are hereby amended to provide for a maximum fine of \$2,500 to read:

Any person found guilty of violating any provision of this ordinance shall be guilty of a class 1 misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$2500 or by imprisonment for a period not to exceed 6 months, or by both such fine and imprisonment. Each day that a violation continues is a separate offense punishable as set forth herein.

D. Civil Citation Authority.

1. ~~Commencement of Action~~Authority to Issue. The city manager or designee, city attorney, prosecutor or any peace officer or code enforcement officer or animal control officer, may issue a civil citation or complaint pursuant to this code. Designee shall mean an individual employed by the city who has been

authorized by the city manager, in writing, to have the authority to issue civil code violations, such authorization shall be filed with the city clerk.

2. Commencement of Action.

a. A civil enforcement action may be commenced by issuance of a citation or complaint.

b. With the exception of SCC Title 10, in the alternative and in the sole discretion of a peace officer or the code enforcement officer, or other person given civil citation authority, an action for violation of this code, any amendments hereto or any order or regulation made hereunder and any ordinances, including the failure to act or perform any duty so required, may be commenced by issuance of a civil citation. Each day that any violation continues shall be a separate offense subject to civil sanction or criminal penalty as set forth in this section.

~~bc.~~ The civil citation shall be substantially in the same form and format as the Arizona traffic ticket and complaint standard form and shall direct the defendant to appear in the Sedona magistrate court at a time certain. The time for appearance shall be specified on the face of the citation and shall be in compliance with all Sedona magistrate procedures.

~~e.-d.~~ The citation shall further notify the defendant that if the defendant fails to appear on or before the date specified in the complaint, a judgment by default shall be entered against the defendant and the court may, in its discretion, impose a civil sanction not to exceed ~~\$250.00~~ \$2,500.00.

~~d.-e.~~ Service of the citation may be accomplished and shall be deemed proper and complete by any of the following methods:

i. By having the defendant sign the citation with the promise to appear in court on or before the date specified on the face of the citation.

ii. If the defendant refuses to sign the citation, then the officer shall hand deliver a copy of the citation to the defendant and note on the defendant's copy of the citation the date and time of hand delivery to the defendant.

iii. By mailing a copy of the citation to the person charged by certified or return receipt requested mail, to the person's last known address.

iv. In the event that service cannot be accomplished as set forth in this subsection, the defendant may be served by any means contemplated or allowed by the Arizona Rules of Civil Procedure or the Arizona Rules of Practice for the Superior Court.

~~2. Authority to Issue Civil Citation. Any peace officer of the Sedona police department may issue a civil citation pursuant to this section. In addition, the code enforcement officer is hereby granted authority to issue a civil citation pursuant to this section.~~

3. Appearance by Defendant. The defendant shall appear within the time specified on the face of the citation in person or through the defendant's attorney. Appearance shall be at the Sedona magistrate court. At the time of appearance, the defendant shall either admit or deny the allegations contained in the citation. In the event the defendant admits the allegations, the court shall enter judgment against the defendant and, in its discretion, may impose a civil sanction not to exceed ~~\$250.00~~ 2,500.00 for the violation. If the defendant denies the allegations contained in the citation, the court shall set a date for the trial of the matter.

4. Default Judgment.

a. If the defendant fails to appear as directed on the citation, the court may enter a default judgment and may, in its discretion, impose a civil sanction not to exceed ~~\$250.00~~ 2,500.00 for the violation.

b. If the defendant fails to appear for the trial, the defendant's failure to appear shall constitute an admission of the offense and the court shall enter judgment against the defendant and may, in its discretion, impose a civil sanction not to exceed ~~\$250.00~~ 2,500.00 for the violation.

c. In civil traffic violation cases, upon a failure to appear or failure to pay a civil sanction, the magistrate court may assess the defendant a default fee of \$25.00.

d. A defendant who defaults on his or her obligation for payment of monies owed or due to the magistrate court including, but not limited to, restitution, fines, sanctions, surcharges, assessments, penalties, bonds, costs and fees, is liable for any fees assessed by a collection agency that is licensed pursuant to A.R.S. Title 32, Chapter 9, Article 2, or any successor statute, and is engaged by the magistrate court to collect and enforce such payment. The collection fees and charges shall be added to the sum or sums due from and chargeable against the defendant.

5. Rules of Procedure. The Arizona Rules of Court for Civil Traffic Violations may be followed by the Sedona magistrate court for civil citation proceedings under this section except as modified or where inconsistent with the provisions of this section, local rules, Arizona Revised Statutes or Rules of Court for courts in the state of Arizona.

6. Collection of Civil Sanctions. Any judgment for a civil sanction taken pursuant to this section may be collected as any other civil judgment. Such collection shall be in accordance with the common law of the state of Arizona, Arizona Revised Statutes and all other applicable rules and regulations. Said sanctions are subject to any exemptions contained in the laws of the state of Arizona. [Code 2006 § 1-8-1].

1.15.020 Collection fees.

A. A defendant who defaults in his or her obligation for the payment of monies owed or due to the city magistrate, including but not limited to restitution, fines, sanctions, surcharges, assessments, penalties, bonds, costs and/or fees, is liable for any and all fees and charges assessed by a collection agency that is licensed pursuant to A.R.S. Title 32, Chapter 9, Article 2, and that is engaged by the city magistrate to collect and enforce such payment. The collection fees and charges assessed by the collection agency shall be added to the sum or sums due from the chargeable against the defendant.

B. A defendant who defaults in his or her obligation for the payment of monies owed or due to the city magistrate, including but not limited to restitution, fines, sanctions, surcharges, assessments, penalties, bonds, costs and/or fees, is liable for any and all fees and charges assessed by a duly licensed attorney, and who is engaged by the city magistrate to collect and enforce such payment. The collection fees and charges assessed by the attorney shall be added to the sum or sums due from the chargeable against the defendant. [Ord. 2001-01, 1-9-2001. Code 2006 § 3-2-8].